



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF	)	
RCN OF NEW JERSEY, INC. FOR A	)	
RENEWAL OF ITS CERTIFICATE OF	)	<u>RENEWAL</u>
APPROVAL TO OWN, OPERATE, EXTEND	)	<u>CERTIFICATE OF APPROVAL</u>
AND MAINTAIN A CABLE TELEVISION	)	
SYSTEM IN THE BOROUGH OF MENDHAM,	)	
COUNTY OF MORRIS, STATE OF NEW	)	
JERSEY	)	DOCKET NO. CE00090622

McDonough, Bauman, Teehan & Flanagan, Maplewood, New Jersey, by Paul E. Flanagan, Esq. for the Petitioner.

Borough Clerk, Borough of Mendham, New Jersey, by Cheryl A. Jones, for the Borough.

**BY THE BOARD:**

On September 7, 1984, the Board granted Citation Cable of Mendham ("Citation") a Certificate of Approval in Docket No. 845C-7072 for the construction, operation and maintenance of a cable television system in the Borough of Mendham ("Borough"). On July 11, 1985, the Board approved the transfer of the Certificate of Approval to Consolidated Cable Services, Inc. in Docket No. CM8505528. On January 20, 1989, the Board approved the transfer of the Certificate of Approval to ComVideo Systems Inc. d/b/a C-TEC Cable Systems ("ComVideo") in Docket No. CM88101132. On October 27, 1993, in Docket No. CM93080313, the Board approved the restructuring of ComVideo into three separate subsidiaries which included RCN of New Jersey, Inc. ("Petitioner"). In this transaction, the Petitioner acquired the majority voting control in C-TEC Cable Systems, the ultimate parent company of ComVideo.

Although the Petitioner's above referenced Certificate expired on September 7, 1999, it is authorized to continue to provide cable television service to the Borough pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the Borough on September 23, 1999, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. On April 3, 2000, after public hearing, the Borough adopted an ordinance granting renewal municipal consent to the Petitioner. On August 30, 2000, the Petitioner accepted the terms and conditions of the ordinance, in accordance with N.J.S.A. 48:5A-24. On September 1, 2000, pursuant to N.J.S.A. 48:5A-16, Petitioner filed with the Board for a renewal of its Certificate of Approval for the Borough.

Subsequent to the filing of the above petition, the Board, in response to numerous complaints, initiated an investigation of the adequacy of the Petitioner's operations and customer services throughout the Petitioner's New Jersey cable systems. The Board held service hearings in the service territory for public and customer input.

In order to resolve the issues raised during the Board's investigation, the Office of Cable Television and its counsel entered into an Administrative Consent Agreement with the Petitioner to settle the service quality matters and customer service issues. The consent agreement obligates the Petitioner, or any subsequent successor, to a number of conditions including completion of all phases of a rebuild/upgrade by December 31, 2004. On February 5, 2003, the parties signed the Administrative Consent Agreement, which addresses its prior rebuild delays and includes a construction schedule for the completion of the rebuild. On February 5, 2003, the Board approved the Administrative Consent Agreement in Docket No. CX01070460 and formally accepted it by Order issued February 13, 2003.

During the course of the above investigation, the Board was informed that the Petitioner had entered into an agreement with Spectrum Equity Investors ("Spectrum") and which is incorporated as Patriot Media and Communications CNJ, LLC ("Patriot") for the purchase of the Petitioner's Central New Jersey cable television system. A joint petition of the sale and transfer of Certificates of Approval was filed on September 11, 2002. According to the sale agreement, Patriot would acquire RCN's Central New Jersey assets and assume all of RCN's obligations, including the Administrative Consent Agreement and its pledged infrastructure rebuild/upgrade. The Board approved the sale and transfer of the Certificate of Approval from the Petitioner to Patriot on February 6, 2003, in Docket No. CM02090653.

The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board **HEREBY FINDS** the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Certificate of Approval. Further, these qualifications were reviewed by the Borough in conjunction with the municipal consent process.

2. The design and technical specifications of the system shall ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance shall expire June 6, 2005. The Board finds the duration to be reasonable.
5. The Petitioner shall provide service along any public right of way to any person's residence or business located in the franchise territory as described in the application. In all other instances, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate (Appendix "I"). The minimum homes per mile ("HPM") figure is 25.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates, and promptly file any revisions thereto.
7. Pursuant to statutory requirements, the ordinance must specify a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with the applicable rules.
8. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. The local office or agent need not be located within the Borough but must be maintained within a reasonable distance affording convenient accessibility to Borough subscribers. The current local office serving this provision is located at 279 Amwell Road in the Township of Hillsborough.
9. The franchise fee to be paid to the Borough is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Borough. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
10. The Petitioner shall provide public, educational, and governmental ("PEG") access services and facilities as described in the application and the ordinance. The Petitioner shall provide the Township's PEG access users with reasonable assistance in producing programming. The Petitioner shall cover events of local interest, at the reasonable request of the Township, using its mobile production facilities and personnel. The Petitioner shall also provide to the Borough the same level of technical support, including equipment and personnel, for the taping of non-commercial PEG events as is provided to the neighboring communities of the Borough.
11. The Petitioner shall provide the following to the Borough, free-of-charge: one channel dedicated for municipal access; one channel dedicated for local origination and

community bulletin board, including character generation equipment; one channel for public access; and at least two channels for educational purposes, one of which shall be fully equipped to automatically broadcast pre-recorded courses.

12. Pursuant to the ordinance, the Petitioner shall provide standard installation and basic cable service as required for cable television and internet cable modem service to each of the following public facilities in the Borough, free-of-charge: Hilltop School, Mountainview School, municipal building(s), police, fire and public works facilities and the Mendham Borough Free Public Library.
13. The Petitioner shall conduct, not less than on an annual basis, a marketing survey of the type and quality of service provided the Borough's subscribers. A copy of the marketing survey and the results shall be provided to the Borough Administrator.
14. Pursuant to the Board's order dated February 13, 2003, in Docket No. CX01070460, the company is required to complete the rebuild/upgrade of the cable system in the Borough no later than July 31, 2004 ("Appendix II"). The new system will operate at a minimum capacity of 750 Megahertz (MHz) and will be capable of providing two-way high-speed cable modem service, high quality digital cable channels, increased network reliability and improved picture quality.

Based upon these findings, the Board **HEREBY CONCLUDES** that, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has the municipal consent necessary to support the petition, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 et seq., that the Petitioner has complied or is ready to comply with all applicable rules and regulations imposed by or pursuant to State and federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is **HEREBY ISSUED** this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Borough. It is noted that CSC TKR, Inc. d/b/a Cablevision of Morris ("Cablevision") is also authorized to provide cable service to the Borough, pursuant to Docket No. CE01070442. Both Cablevision and the Petitioner have been granted municipal consent to serve the entirety of the Borough.

This Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein. The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq. including but not limited to, the technical standards 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or the Office of Cable Television and/or the terms, conditions and limitations set forth herein may

constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire June 6, 2005.

DATED: April 11, 2003

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

\_\_\_\_\_  
JEANNE M. FOX  
PRESIDENT

(signed)

\_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

(signed)

\_\_\_\_\_  
CAROL J. MURPHY  
COMMISSIONER

(signed)

\_\_\_\_\_  
CONNIE O. HUGHES  
COMMISSIONER

(signed)

\_\_\_\_\_  
JACK ALTER  
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO  
SECRETARY